UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 5

POINTING PLUS INC.

And

JUAN GUZMAN, AN INDIVIDUAL

Case 5-CA-72371

JOSE SAMUEL IGLESIAS, AN INDIVIDUAL

Case 5-CA-72372

WILFREDO VENTURA RAMOS, AN INDIVIDUAL

Case 5-CA-72390

ELISEO RAMOS HERNANDEZ, AN INDIVIDUAL

Case 5-CA-72394

RESPONDENT'S ORIGINAL ANSWER AND RESPONSE TO ORDER TO SHOW CAUSE

The consolidated cases (the "Case") arise out of an incident wherein three (3) employees quit. Believing the Respondent was unable to meet payroll, the employee's located alternative employment, but decided three days later that they wished to return to Respondent's staff when they learned that the temporary budgetary shortfall had been resolved. The employees then filed a complaint through the National Labor Relations Board ("NLRB") asking for pay lost between the time they quit and the time they were rehired by the Respondent.

The fourth employee, Juan Guzman, was a supervisor, as proven by the original affidavits of the three employees, attached as Exhibit "A" – "H." Respondent terminated Guzman when he arrived, unauthorized, at a jobsite yelling and screaming regarding the other three employees. Guzman's behavior was witnessed by James Halligan, whose testimony is established by the attached affidavit. Exhibit "I."

The NLRB demanded that the Respondent pay all four (4) men for the time the men did not work, claiming for the first time that the men were "engaged in a protected activity." Guzman is a supervisor as defined by the National Section 2(11) because he is an individual

having the authority, on behalf of Pointing Plus, to assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, in connection with the exercise of authority which is not of a merely routine or clerical nature, but requires the use of independent judgment. Labor Relations Act is unable to engage in a protected activity pursuant to established federal law. 29 U.S.C. §152(3). The affidavits of the first three employees, drafted by the NLRB, prove Guzman is a supervisor. *See* Exhibit A – C.

The remaining three employees quit prior to being terminated by Respondent. No notice was ever given by the employees of any collective action, bargaining, etc. Therefore, there can be no labor dispute and the National Labor Relations Board lacks jurisdiction. 29 U.S.C. §160. Moreover, Pointing Plus business does not affect commerce.

This Court should not enter a default judgment because the National Labor Relations Board has flouted the law and intentional misrepresented the status of Juan Guzman in an attempt to obtain jurisdiction where none exists. Further, the Board's attorney, Albert Palewicz, orally informed Pointing Plus' owner, Danny Palousek, that he would give him an extension to respond to the Board's complaint on two separate occasions. Danny Palousek is capable of establishing the veracity of this statement under oath at the show cause hearing.

- 1. With respect to paragraph 1, parts (a)-(f), the Respondent lacks sufficient information as the NLRB's actions to respond.
- 2. With respect to paragraph 2, parts (a) (c), the Respondent admits that is a resident of the District of Columbia; however, the Respondent denies the balance of the paragraph.
 - 3. With respect to paragraph 3, the Respondent admits that Danny Palousek owns it.

4. With respect to paragraph 4, the Respondent admits that Alexis Ventura is an

agent of Respondent's.

5. With respect to paragraph 5, the Respondent admits that employees Jose Samuel

Iglesias, Wilfredo Ramos Ventura, and Eliseo Ramos Hernandez left a jobsite and informed their

immediate supervisor that they quit. The Respondent denies that the employees engaged in any

protected activity.

6. With respect to paragraph 6, the Respondent states that because the employees

quit first, the Respondent was unable as a matter of law to terminate their employment.

7. The Respondent denies paragraph 7 in its entirety.

8. The Respondent denies paragraph 8 in its entirety.

9. With respect to paragraph 9, Juan Guzman informed the Respondent's agent that

the three men wanted their jobs back. The Respondent denies the balance of paragraph 9.

10. The Respondent admits that it terminated Juan Guzman, a supervisor, on January

10, 2012 because he became verbally and physically abusive.

11. The Respondent denies paragraph 11 in its entirety.

12. The Respondent denies paragraph 12 in its entirety.

13. The Respondent denies paragraph 13 in its entirety.

Respectfully submitted.

Subscribed and duly sworn to before me by above-named applicant, this

25th day of Jun€

at Washington, DC.

Dana R. Gill District of Calumbia, Notary Pists My Commission Expires

January 31, 2016

POINTING PLUS, INC.'S ORIGINAL ANSWER - PAGE 3

Pointing Plus, Inc., by Danny Palousek, owner

EXHIBIT A

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EXHIBIT B

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INSTRUCTIONS:

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD FIRST AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE Date Filed 03/22/2012 05-CA-072371

File an original of this charge with NLRS Regional Director in which the alleged unfair labor practice occurred or is occurring.

1 EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a Name of Employer POINTING PLUS INC	THE RESIDENCE PROPERTY OF THE PARTY OF THE P	b. Tel No (202)812-6468 c. Cel No.
d Address (stret, city, state ZIP code)	e Employer Representative	f. Fax No.
1214 NEAL STINE, WASHINGTON DC 20002-3810	DANNY PALOUSEK	(757)257-7609 g. e-Mail
		h. Dispute Location (City and State) WASHINGTON, DC
i Type of Establishment (factory, nursing home, hotel)	J. Principal Product or Service	Number of workers at dispute location
Construction Company	Construction	10 est
i i		1

The above-named employer has engaged in and is engaging untair labor practices within the meaning of section 8(a), subsection (1) of the National Labor Relations Act, and those untair labor practices affecting commerce within the meaning of the Act, or these untair labor practices are untair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.
 Sasts of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about January 10, 2012, the Employer has interfered with, restrained, and coerced its employees by telling them that employees who engage in protected concerted activity, or support such activity, will not be employed by the Employer.

On or about January 10, 2012, the above-named Employer, by its officers, agents and supervisors, by terminating Juan Guzman because of his protected concerted activities, and/ or his support of the protected concerted activities of employees who engaged in a protected work stoppage in protest of the Employer's failure to pay them on time.

3. Full name of party filling charge (if labor organization, give JUAN GUZMAN	ful name, including local name and numb	to any finish family and the contract of the first of the contract of the cont
. 4a. Address (street and rumber, city, state, and 2:P code)	en e	4b Tel No. (301) 651-3487
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5 Full name of national or biturnational labor organization of organization)	which it is an affiliate or constituent unit (to be litted in when sharge is fied by a labor
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WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN HE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

Saliertation of the information on this form is authorized by the National Liebor Relations Act (NLRA), 291/SC § 151 or seq. The principal via of the information in to assist the Norman Liebor Relations Act (NLRA), 291/SC § 151 or seq. The principal via of the information in to assist the Norman Liebor Relations Pearl (NLRA), 291/SC § 151 or seq. The principal via of the information or the site of the intermediate processing under the left principal via of the site of the intermediate processing of linguistic The instance uses for the information or fully set forther replain them uses upon request. Disclosure of this information to the NLRB in voluntary bowever failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT C

UNITED STATES OF AMERICA MATIONAL LABOR RELATIONS BOARD

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CHARGE AGAINST EMPLOY	ER	Case		Date Flied
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a Name of Employer			b Te	II. No. 202-812-6488
POINTING PLUS INC.				ell No
d. Address (Street, only, state, and ZIP code)	e. Employer Represe	d seion.	⊣' 5;	57-257-7609
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PRIVACY ACT STATEMENT

Solicitation of the Information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 of sec. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing until tabor practice and related proceedings or regardon. The routine uses for the information are fully set from in the Federal Roghtm, 71 Fed. Reg. 74942-43 (Dec. 13, 2008). The NLRB will further explain these uses uson request. Disclosure of this information to the NLRB is voluntary, name or fairner to supply the exformation will cause the NLRB to decline to invoke its processes.

EXHIBIT D

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1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

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·		c Call No.
d Address (street, cfy., stere ZIP code) 1214 NEAL STINE, WASHINGTON.	Employer Representation DANNY PALOUSEK	f, Fax No (757)257-7809
DC 20002-3810		S C-MED
		h Dispute Location (City and State) Washington, DC
i Type of Establishment (tactory, nursing home, hefet)	Principal Product or Service	k Number of workers at dispute receion 10 Est
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2 Basis of the Charge (set forth a crear and conclus statement of the facts constituting the eflected unital value practices)

On or about January 9, 2012, the above-named Employer, by its officers, agents and supervisors, by terminating Wilfredo Ventura Ramos because of his protected concerted activities, and/ or his support of the protected concerted activities of employees who engaged in a protected work stoppage in protest of the Employer's fallure to pay them on time

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PRIVACY ACT NINTEMENT

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EXHIBIT E

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INSTRUCTIONS: File on original with NLRB Regional Director for the region is which the	atteged unfair labor pri	sches occurred or is occurre	
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8 Name of Employer			b. Tel No 202-812-6468
POINTING PLUS INC.			c. Ces No
d Address (Sirest, city state, and ZIP code)	e Englayer Represe	entar vo	157-257-7609
1214 Neal St NE, Washington DC 20002	Danny Palousek		g c-Mail
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EXHIBIT F

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FIRST AMENDED CHARGE AGAINST EMPLOYER
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n Dispure Location (City and State)
Washington, DC
k Number of workers at dispure bushion
10 est. 5 Tel No (202/812-6468 c Celt No Far No (757)257-7609 g #:Med Employer Representative
 DANNY PALOUSEK Primpal Product or Service Construction i Type of Essebsement (Bassoy, numing Name, note) Note) Construction Company of Address (Street, City, State ZIP code) 1214 NEAL ST NE, WASHINGTON, DC 20002-3810 POINTING PLUS INC

On or about January 9, 2012, the above-hamed Employer, by its officers, agents and supervisors, by terminating Jose Samuel Iglesias because of his protected concerted activities, and/or his support of the protected concerted activities of employees who engaged in a protected work stoppage in protest of the Employer's failure to pay them on time i. The above-nemed projects has expepted at and a respang unlet than sealings the majoring of sealon 6(8), suspending the National Libor Pations Ast and Other Libror persons are bestices affecting comments with the reasoning of the Act, or these unlet labor presides are Visit practices affecting comments when the meaning of the Act and the "Other Rougestands has

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6 DECLARATION Gederal hall have read the above charge and that the subsements are gue to the best of	e statements are your to the best of	2 2
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\ Q 7#	JOSE SAMIJELIGI ESIAS	Unice if eny Cest Wo
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(advance of representative or person making charge)	Print Name and Title	Fax No
ASSASS 2619 VIKING OR, HERNDON, VA	Cura	4-M4s
26/71:2418		Chatos 7@hve com

EXHIBIT G

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a Name of Employer	1 EMPLOY ** AGAINST WIDM CHARGE IS BRO	GHT b 10 Np. 202 gas
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POINTING PLUS	S INC.	c Ced No.
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2. Sesse of the Charge (see On or about January 1 me and other employe me and other employe then discharged a sup	2. Basis of the Change (see Anth a ceer and conder statement of the facts constituing the adapted unitar lates practicity. On or about January 10, 2012, respondent employer victated sections 8(s)(1) and (3) of the act by discriminating against me and other employeers based on our participation in protected concerted activities. Specifically, the employer terminated me and other employees for refusing to work in response to the employers failure to pay us on time. And, the employer the discharged a supervisor who tried to defend us for striking.	Not prefects) I) of the act by discriminating against Specifically, the employer reminated pay us on time. And, the employer
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Liseo Ramos Hernan	Fisco Ranos Hernándaz	
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1124 N Kenilworth St. Apt.	Agt 3	6c Con No
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5 Full name of national or n organization)	> Full name of national or international labor organization of which it is an efficient or consultanticed (to be liked in when charge is kind by a labor organization)	e Need in when charge is filed by a labor
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La Bio Gara	Eliseo Ramos Hernandez	Office, if any Call No
A STATE		FaxNo
SOUTH 1 LA N NETHWOL	Agests 1124 N Rensworth St. Apr. 3, Artington, VA 22205	

ADDITION NEGRONDED STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1991)
WILL FOLL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1991)
SOCIETATION OF PROPERTY ON THIS CHARGE CAN BE PUNISHED BY STATEMENT OF SOCIETATION OF PROPERTY OF PRO

EXHIBIT H

Form NURB 501 (2-08)				
TUNTED STATES OF AMERICA FUEL AGENCY CHARGE AGAINST EMPLOYER		CO NOT WONTE II	DO NOT WRITE IN THIS SPACE	
		Case	Data Filed	
HE HOLL CHARGE AGAINST	MPLOYER			
INSTRUCTIONS:		05-CA-072394	03/23/2012	
Fire an original of this charge with MLRB Regional L	Director in which the elegac uniter labo EMPLOYER AGAINST WHOM CHARG	y predice occurred or a occurring in is BROUGHT		
Name of Employer		b Tet No	D Tel No	
POINTING PLUS INC			(202)812-6468	
		c Cel No		
d Address (street, city, state ZIP code) 1214 NEAL STINE, WASHINGTON	e Employer Representative DANNY PALOUSEK		(757)257-7609	
DC 20002-3810	DAMM PALOUSER	S e-Meu		
			h Dispute Location (City and State) WASHINGTON, DC	
i. Type of Establishment (fectory, numbing froms,	¿ Principal Product or Service		we at dispute location	
CONSTRUCTION COMPANY	CONSTRUCTION	10 est		
Labor Revisions An, and these unfas labor practice unfast practices affecting commence within the me 2. Basis of the Change (set Auth a clear and control On or about January 9, 2012, the terminating Eliseo Ramos Hern	entro of the Act and the Postal Recogar se safement of the facts constituting the ne above-named Employer	to the officers, agents		
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WILLER, PALSE STATEMENT ON THIS CHARGE CAN BE PLYISHED BY EIN, AND IMPRISONMENT BIS, CODE, TITLE 18, SEPTIEN 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form in authorized by the Notional Lado Religions for 60 PLAIN 2011S C 1, 151 or long. The principal due of the information is to existin National Lado Religions for processing unlike them present our religions. The religion them to set of the information or fellows for the referred Regions of the information or fellows for the referred Regions of the Regions of

EXHIBIT I

James Halligan 2055 N. Woodstock St. #201 Arlington, VA 22207 June 13, 2012

To Whom it May Concern,

Please accept this letter as my eyewitness account of the conversation and action on January 13, 2012, between Daniel D Palousek, Owner of Pointing Plus, LLC, and Mr. Juan Guzman, employee of Pointing Plus, LLC.

On January 13, 2012, I was on the job site at 817 C St., NW, Washington, DC working as an employee of Pointing Plus LLC. Mr. Palousek was also working on the site on this day, along with another Pointing Plus employee. I witnessed Mr. Guzman unexpected arrival at the job site to speak with Mr. Palousek regarding late receipt of the employee paychecks. Mr. Palousek explained that he had informed all employees of the check Delay and that all employees agreed to receive their paychecks from Pointing Plus on Friday, 01/06/2012 at the end of the day.

Mr. Palousek explained that he did in fact arrive on that day before close of business to distribute paychecks, but that that the employees had left the job early on that day and did not receive their checks. The conversation appeared to be clear on both parts. However, I witnessed Mr. Guzman become irritated responding in a loud tone. After explaining again what had happened, and that Mr. Guzman had confirmed that he understood the check situation; Mr. Guzman refused to agree and continued to dispute. Mr. Palousek asked that he please leave the job site and that they could continue to discuss the situation at a later date. Mr. Guzman refused to leave the property after being asked several times. Mr. Palousek demanded that he follow him off of the sight which he finally did. I witnessed Mr. Palousek ask for any Pointing Plus property that he had and he said that he had none. Mr. Palousek asked him to open his trunk which he did, at which time he viewed Pointing plus Property all over his trunk. At that point he was willing to return the property and Mr. Palousek obtained the Pointing plus Property. From my view things seemed to be understood that both parties had discussed and were in agreement that the paychecks would be delayed. However, Mr. Guzman proceeded to disagree and became angry. From my view Mr. Palousek acted in a professional, by

the book manner. I strongly feel that any reason Mr. Guzman may have had to file a complaint could only have come from his clear understanding being lost in translation due to a possible language barrier.

I have been an acquaintance and employee of Daniel Palousek for many years. I can attest to his moral and professional character as a person as well as an employer. I have always been impressed with Mr. Palousek's treatment of his employees as being an equal to himself, working with them on the job site, constantly thinking of ways to increase their safety, and very much concerned with their comfort and well being.

Sincerely,

James Halligan

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Ecuardo Pineda Commonwealth of Virginia Natary Puplic Commission No. 7089562 My Conmission Exoles 3/31/2015 County/OHy of HILLINGTON
Commonwealth/State of Ulfrysial a
The buegoing instrument was accrowledged
before me this 23 day of 2440C

(name of person seeking ephnoximationment)

My Commission Dores Augh 2, 201